

WORKING FOR THE CIVIL DIVISION

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For more information about the Civil Division, visit our web site at www.usdoj.gov/civil/home.html.

ROLE OF THE CIVIL DIVISION AND ITS ATTORNEYS

As you plan your future career in the law, we invite you to consider a challenging and rewarding position as an attorney in the Civil Division. With over 600 attorneys, Civil is the largest Legal Division in the Department of Justice, and we offer new attorneys experiences that are unsurpassed elsewhere in the legal profession. We are committed to diversity in the work place, and welcome exceptional legal professionals whose insight and experiences will enhance our representation of the government and the American people.

The Civil Division represents more than 100 federal agencies, individual employees, Members of Congress, the federal judiciary, and the people of the United States — an impressive array of clients. The subject matter of the Division's litigation is as broad and diverse as the activities of the government itself. Many of its cases have significant domestic and foreign policy implications. The Civil Division defends the United States in suits challenging the constitutionality, lawfulness, or propriety of Presidential initiatives, federal statutes, and government programs and actions. It initiates litigation to enforce various federal statutes, including the nation's consumer protection and immigration laws, and defends against challenges to those statutes and associated enforcement activities. The Division handles litigation involving billions of dollars in areas such as fraud, international trade, patents, bankruptcies, claims against the government, and foreign litigation. The Division also litigates general tort claims, including those that involve toxic substances, aviation,

admiralty, and the defense of federal officials sued personally for official actions. Our achievements include recovering more than \$500 million lost through fraud against health care and defense programs, protecting the President's foreign policy initiatives, defending Congressional efforts to shield children from pornography on the Internet, and protecting the Treasury from billions of dollars in claims arising from the government's commercial activities.

As a result of the demanding caseload, new attorneys are immediately involved in handling significant litigation for the Division. Unlike their counterparts in the private sector, Civil Division attorneys receive substantial responsibility for cases from the start. They determine strategy and tactics, prepare pleadings and briefs, and manage discovery and trial proceedings. In some instances attorneys handle cases alone while, in others, they share responsibility with another attorney or team of attorneys. Typically, during the first year with the Division, a new attorney may expect to have "first chair" litigation responsibility, either at the trial level or in the appellate courtroom.

The Civil Division's role within the legal community is one of responsibility, visibility, and importance. We invite you to consider joining us in serving the United States with honor and integrity.

WHAT DOJ OFFERS YOU

In addition to an opportunity to be the counsel of record for the United States in cases having critical financial, political, and social impact, there are some other advantages that come with being a federal employee. No, we don't have the salaries that some major law firms offer, and yes, we fly coach. However, you will get all of the rewards of working for your country as well as excellent benefits.

DOJ attorneys have access to a full range of benefits and resources including,

- Annual leave (Vacation and personal days)
 - 0-3 years of government service = 13 days per year
 - 3-15 years of service = 20 days per year
 - 15 plus years of service = 26 days per year
 - In some instances, additional annual leave credit can be granted based on skills and experience acquired in a prior non-federal or active duty position
- Sick leave - 13 days per year - which can be carried over from year to year indefinitely. Sick leave can now be utilized for family care purposes, bereavement or adoption
- Federal Employees Retirement System
- Thrift Savings Plan - employees may contribute up to \$15,000 per year, tax-deferred until retirement, with the Government matching contributions up to 5 percent
 - Eligible participants 50 years of age or older

are permitted to make "Catch-up contributions" of \$5,000 per year into TSP accounts

- Group life insurance
- Group health insurance
- Long term care insurance
- Transit Subsidy for employees who commute via public transportation
- Attorney student loan repayment program
- After 1 year, entitlement to 12 weeks of leave under the Family and Medical Leave Act for a family medical crisis, birth or adoption
- Federal Flexible Spending Accounts enables eligible employees to pay for certain out-of-pocket costs including health care and dependent-care expenses
- Incentive Awards Program (cash or honorary awards) for superior performance, special acts or services
- Worklife Program which includes referral to LifeCare, a life event management service, and day care/child development center ("Just Us Kids")
- Fitness facilities available
- Justice Federal Credit Union, a full service financial institution
- Employee Assistance Program for counseling and referral services
- Mentor Program introduces entering attorneys to the Department and takes an active role in professional development during the first years of practice.
- Health units, which offer free health awareness/screening programs, emergency response/walk-in care and first aid
- Employee affinity groups such as:
 - DOJ Association of Black Attorneys

- DOJ AHEAD (Association of Hispanic Employees for Advancement and Development)
- Indian Trial Lawyers Association of DOJ
- DOJ Pan Asia Employees Association
- DOJ Pride (Gay, Lesbian and Bisexual employees)

AUTOMATION AND TECHNOLOGY

Civil Division attorneys have access to the full range of services needed to manage the tasks associated with litigation. Each attorney in the Division is connected through personal computer to the Justice Consolidated Operating Network (JCON). Through JCON, attorneys can access legal research tools such as Westlaw and Lexis, as well as E-mail, the Internet and the Department of Justice's own Intranet. JCON also provides staff support and a telephone "Help Desk" so that employees can get answers to their computing questions.

The Division also employs modern computer and imaging technology to store and retrieve massive volumes of materials enhancing the legal staff's effectiveness in conducting discovery, preparing for depositions, and presenting evidence at trials. Attorneys can identify and locate essential documents in a fraction of the time that would be required without automation. Civil Division attorneys devote their time and effort to dealing with issues of law, rather than swimming through a sea of documents in search of elusive facts.

Where circumstances warrant, such as in cases involving the evaluation of statistical data, completely customized databases can be created. Other special services, such as obtaining auditors, translators, and expert witnesses, are provided as the needs of the case demand. Laptop computers provide attorneys with access to office automation and their litigation support databases from home, while on travel, or at remote trial sites, wherever litigation takes them.

The Case Management System tracks cases from receipt through the trial and appellate stages, and into the accounts receivable stage. This database is the Division's primary tool for controlling and tracking its cases. The Automated Records Tracking System tracks the location and contents of case files that reside in the Division's file rooms.

Collectively, all of these features provide Civil Division attorneys with a modern, fully automated law office environment.

APPELLATE STAFF

- Employs approximately 60 lawyers
- Responsible for the appellate work of the entire Civil Division
- Handles the many cases that are appealed directly from administrative agencies to the courts of appeals

The Appellate Staff was established in 1953 by Warren Burger, then Assistant Attorney General of the Civil Division. Attorneys on the Staff draft briefs and argue cases in the courts of appeals. In addition, each attorney participates in drafting various documents for the United States Supreme Court, including petitions for certiorari and briefs on the merits.

Examples of our practice

The Staff's broad and varied litigation includes constitutional issues of individual liberties, issues of societal and collective rights exercised by the government and issues affecting national security and executive authority. For example, the Appellate Staff has been involved in several cases challenging state "Megan's Laws," laws that protect children by requiring released sex offenders to register with state officials and permitting the state to publish their identities so that communities can be aware of the presence of these sex offenders.

In Global Relief Foundation v. O'Neill, the Appellate Staff successfully defended against challenges to

actions taken by the Secretary of Treasury pursuant to the global terrorism financing executive order issued by President Bush. Global Relief, a charitable organization with ties to Hamas, a foreign terrorist organization, had claimed that the blocking, in aid of investigation, of their bank accounts and business records violated the International Emergency Economic Powers Act and the Constitution.

The Appellate Staff also handles cases with enormous potential impact on the public fisc. In Schism v. United States, for example, plaintiffs sought free lifetime medical care (for themselves and their dependants), contending that the Government induced them to serve in the military by recruiters' repeated promises that, upon retirement, they and their dependents would be entitled to such care. The government advised the appellate court that the Department of Defense had estimated that the panel's decision could potentially lead to claims by 1.5 million individuals for more than \$15 billion in damages.

The Appellate Staff is also actively participating in important litigation concerning campaign finance reform. McConnell v. FEC involves a challenge to the constitutionality of various provisions of the Bipartisan Campaign Finance Reform Act of 2002, popularly known as the McCain-Feingold statute, which imposes various restrictions on the financing of federal election campaigns.

COMMERCIAL LITIGATION BRANCH

- Largest branch in the Division with approximately 250 attorneys
- Attorneys work in one of six major areas: Civil Frauds, Contract Disputes and Other Claims Court Matters, Customs and International Trade, General Corporate/Financial Litigation, Intellectual Property, and Foreign Litigation
- Handles cases that involve billions of dollars in claims both by and against the government

Civil Fraud attorneys litigate many of the Division's cases that have the highest monetary stakes. Working with the U.S. Attorneys' offices, Branch attorneys recover hundreds of millions of dollars each year from individuals and corporations who have defrauded the government through federal contracts, Medicare and other federal health insurance programs, subsidies, grants, and loans -- wherever the government's money is at stake. A primary source for the section's cases are actions filed by whistle-blowers pursuant to the *qui tam* provisions of the False Claims Act.

Example of our practice

HCA (formerly Columbia/HCA), the largest for-profit hospital chain in the country, has been the subject of one of the most significant health care fraud investigations ever launched by the Government. DOJ attorneys pursued Government initiated claims as well as numerous *qui tam* actions in multi-district litigation alleging that HCA had fraudulently billed

Medicare and other federal health insurance programs for outpatient laboratory, inpatient, and home health services; had inflated hospital cost reports; and had paid illegal kickbacks. The Government reached a partial settlement with HCA in December 2000 for \$745 million. In December 2002, HCA tentatively agreed to pay an additional \$631 million to resolve its outstanding liability to the Government.

National Courts attorneys working on Contract Disputes and other Court of Federal Claims matters serve as the "U.S. Attorney" for the United States Court of Federal Claims and the United States Court of Appeals for the Federal Circuit. This includes contract cases arising under the Contract Disputes Act of 1978 and bid protest actions seeking declaratory and injunctive relief.

Examples of our practice

Government Contracts and Commercial Litigation

National Courts attorneys litigate primarily before the Court of Federal Claims, handling a number of large, complex cases with significant legal issues and billions of tax-payer dollars at stake. In the Winstar cases, plaintiffs seek over \$30 billion in claimed damages resulting from the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), which eliminated questionable accounting practices allegedly guaranteed in long-term contracts with thrift regulators. In July 1996, the Supreme Court held that the government was liable in three early cases, resulting in a tidal wave of

litigation. A case management order was adopted, and a dozen cases were slated for "priority" trials, with the remaining cases scheduled to be released for discovery in annual "waves" of 30 each. National Courts attorneys handle all aspects of litigating these cases, including discovery, dispositive motions, trials, appeals, and settlements.

Appellate Practice

National Courts attorneys are responsible for handling appeals before the Court of Appeals for the Federal Circuit from decisions of the Court of Federal Claims, agency contract appeals boards, the Court of Appeals for Veterans Claims, petitions for review of Merit Systems Protection Board (MSPB) decisions under the Civil Service Reform Act of 1978, and a limited number of appeals from Federal district courts. In two MSPB appeals, for example, the Supreme Court sustained the authority of Federal agency managers to determine who should have access to classified information (Dept. of the Navy v. Egan), and to discipline Federal employees for lying to investigators (Erickson v. United States).

Customs and International Trade attorneys represent the United States in all international trade and customs matters before the Court of International Trade and the Court of Appeals for the Federal Circuit. The Branch attorneys defend the imposition of special duties upon dumped or subsidized imports, prosecute civil customs fraud violations, and counterattacks against our international trade agreements.

Example of our practice

In Corus Group PLC v. Bush, a Dutch steel producer together with various affiliated parties challenged the President's proclamation imposing a tariff rate quota and an increase of duties with respect to an array of steel products from numerous countries. This proclamation followed determinations by the International Trade Commission that certain steel products were being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the U.S. steel industry. Branch attorneys successfully defended against the plaintiffs' motion for preliminary injunction and obtained summary judgment upon behalf of the government.

General Corporate/Financial Litigation attorneys conduct affirmative and defensive litigation to promote and protect the interests of the United States in commercial matters involving large sums of money. These matters include corporate restructuring proceedings, contract disputes, and federal loan, subsidy and insurance programs.

Examples of our practice

Attorneys have represented various federal agencies with monetary claims and regulatory interests in the chapter 11 bankruptcy cases of various airlines, including U.S. Airways and United Airlines. Additionally, section attorneys have worked to recover hundreds of millions of dollars in Medicare overpayments and health care fraud in numerous chapter 11 bankruptcy proceedings, including five of the seven largest nursing home chains - each owning approximately 300 to 450 facilities.

Intellectual Property attorneys defend the United States against allegations of patent and copyright infringement in the United States Court of Federal Claims and the United States Court of Appeals for the Federal Circuit.

Examples of our practice

A patent case brought against the government

In Pfund v. United States, the plaintiff sought over \$100 million in compensation claiming that laser communication systems built for various government agencies infringed his patents. After a three-week trial and extensive post-trial briefing, the Court of Federal Claims found that the government had proved by "clear and convincing evidence" that the asserted patent claims were invalid because the patented invention would have been "obvious." This judgment was affirmed by the Court of Appeals for the Federal Circuit.

A copyright and trademark suit brought on behalf of a government agency

In United States v. The Washington Mint, a copyright and trademark suit was brought on behalf of the United States Mint for its infringement of the United States's copyright in the obverse design of the new Golden Dollar coin featuring Sacagawea, and for trademark damages for use of the confusingly similar trade name "The Washington Mint." The district court issued the requested injunction and required a disclaimer to accompany any advertising by the Washington Mint of any United States Mint product. The United States also recovered substantial royalties.

Foreign Litigation attorneys coordinate and oversee the representation of the U.S. in foreign proceedings. Attorneys also represent the government in some domestic cases involving questions of international and foreign law.

Examples of our practice

In a case of first impression, a Canadian appellate court affirmed a lower court ruling recognizing and enforcing a \$4.6 million judgment of a U.S. district court based on the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Separately, the U.S. recently recovered \$3 million from bank accounts in Antigua for the Federal Trade Commission to provide restitution to victims of fraud resulting from an illegal pyramid scheme operated over the Internet.

FEDERAL PROGRAMS BRANCH

- Approximately 100 attorneys are employed by the Federal Programs Branch
- The Branch litigates on behalf of approximately 100 federal agencies, the President and Cabinet officers, and other government officials

Activities in the Federal Programs Branch include the defense against constitutional challenges to federal statutes, suits to overturn government policies and programs, and attacks on the legality of government decisions. The Federal Programs Branch also initiates litigation to enforce regulatory statutes and to remedy statutory and regulatory violations. Federal Programs' attorneys have the opportunity to handle diverse issues from a variety of subject areas.

National Security, Foreign Relations, and Law

Enforcement – Attorneys are involved in critical and highly visible litigation on behalf of the Departments of State, Treasury and Defense. The Branch has represented these departments in cases involving international terrorism and treaties.

Interstate and Foreign Commerce – Attorneys represent the Treasury Department in litigation challenging economic sanctions and commerce laws.

Government Agencies and Corporations – Attorneys defend a variety of agencies, including the Postal Service, the Department of Veterans Affairs, and the White House.

Nondiscrimination Personnel Litigation – Attorneys handle cases involving constitutional, statutory, and other issues of appointment and removal of officers and employees of the United States, including Presidential appointees. This area also includes First Amendment, Fourth Amendment, and other constitutional challenges to government-wide statutes.

Discrimination in Employment Litigation – Attorneys defend against suits alleging discrimination in federal employment under the U.S. Constitution and a number of federal statutes and Executive Orders. The Federal Programs Branch defends a number of complex Title VII class actions, as well as high-profile or novel individual cases. Since the authorization of compensatory damages and jury trials in 1991, this field of litigation has seen explosive growth in both the number and complexity of cases.

Human Resources – Attorneys focus on challenges to the wide variety of programs administered by the Department of Health and Human Services (HHS) and the Department of Education.

Interior, Agriculture, and Energy Concerns – Attorneys handle a variety of cases including USDA's commodity marketing and promotion order programs, the Food Stamp program, and meat safety and inspection services.

Housing and Community Development – Attorneys address housing and housing-related cases involving the rights of tenants in federally-subsidized housing, the government's obligations to public housing authorities (PHAs), the disposition of HUD-owned mortgages, rural

housing programs, and housing for the homeless.

Freedom of Information and Privacy – Attorneys defend against lawsuits seeking documents used or created by government agencies. This includes litigation over materials related to FBI actions and the documents related to FBI investigations, including the FBI's crime lab and its handling of evidence.

Regulatory Enforcement and Defensive Banking

Litigation – Attorneys ensure compliance with federal statutes and regulations by initiating enforcement actions on behalf of federal agencies.

Disability Litigation – Attorneys handle nationwide, class-action lawsuits attempting to effect substantive changes in the Social Security Administration's regulations and procedures.

Examples of our practice

Affirmative Litigation

The Federal Programs Branch is responsible for civil penalty actions, subpoena enforcement actions, and suits for injunctive relief based on statutory and constitutional violations. For example, the Branch filed an action on behalf of the Department of Energy against the Governor of South Carolina seeking injunctive relief to prevent the blockade of surplus plutonium to federal facilities in South Carolina. The Branch also brought an action against the Pacific Maritime Association and the International Longshore & Warehousemen's Union to enjoin an ongoing lockout at all 29 ports along the west coast.

International Terrorism

Since September 11, 2001, the Federal Programs Branch has played a significant role in the on-going implementation of the President's global terrorism executive order, by which the assets of hundreds of terrorists or their financiers have been frozen. The Branch has also defended against attempts by designated entities to challenge the statutory and constitutional authority of the President to freeze their assets, as well as the underlying factual bases supporting their designations. The Branch has also represented the Departments of State, Treasury, and Defense in cases in which victims of international terrorism have tried to satisfy multi-million dollar court judgments that these victims have obtained against sovereign nations. The plaintiffs have endeavored to attach assets in the United States that are "blocked" pursuant to government sanction programs.

Internet/Pornography Litigation

The Federal Programs Branch has defended Congress' efforts to restrict the access of children to pornography that is otherwise accessible to them over the Internet. Since 1998, the Branch has been defending the Child Online Protection Act, which seeks to restrict access to pornographic Web sites. More recently, the Branch has defended the Children's Internet Protection Act, which conditions the receipt by public libraries of certain federal benefits and discounts on their installing filtering software on their computer terminals that access the Internet.

OFFICE OF CONSUMER LITIGATION

- Employs approximately 25 attorneys
- The Branch enforces the nation's consumer protection laws and defends the federal agencies that administer those laws
- Attorneys handle civil and criminal cases at both the trial and the appellate levels

The Office of Consumer Litigation (OCL) is responsible for criminal and civil litigation and related matters arising under a variety of federal statutes that protect public health and safety and that are administered by its client agencies: the Food and Drug Administration, the Federal Trade Commission, the Consumer Product Safety Commission, and the National Highway Traffic Safety Administration. The Office also enforces statutes that regulate unfair and deceptive trade practices, and defends government programs and policies in consumer-related areas. OCL has made its priority protecting consumers who are, because of our complex economy, unable to protect themselves from dangerous, unfit, or worthless products.

Examples of our practice

Generic Drugs

OCL has led the prosecution of generic drug manufacturers who obtained FDA approval of various generic drugs through the submission of falsified test data. Some 19 companies and 60 individuals have either pled guilty or been convicted at trial. Fines totaling more than \$51 million and jail sentences of

up to five years have been imposed. The investigation has also resulted in the withdrawal of hundreds of new drug approvals, the debarment of scores of individuals from the pharmaceutical industry, and the entry of civil injunctions against additional firms and individuals.

Odometer Enforcement

OCL prosecutes individuals who make a business of purchasing relatively new, high-mileage, used cars, turning back their odometers, and reselling them. Typical prosecutions involve hundreds to thousands of odometers that were rolled back over a period of several years. These conspiracies usually operate over several states, making detection and prosecution by state authorities virtually impossible. Victims typically suffer significant economic damage from these crimes.

Unsafe Consumer Products

At the request of the Consumer Product Safety Commission (CPSC), OCL brings civil penalty actions against companies which have introduced unsafe products into inter-state commerce in violation of the Federal Hazardous Substances Act or which have violated the Consumer Product Safety Act by failing to report to the CPSC that a consumer product may be defective. OCL obtained a civil penalty of \$725,000 against a leading manufacturer of children's products for failing to report to the CPSC that openings between steel bars in the company's toddler beds and in accessory guardrails presented a risk to small children of head/neck entrapment and consequent strangulation.

OFFICE OF IMMIGRATION LITIGATION

- Employs approximately 100 attorneys
- Conducts civil trial and appellate litigation under the immigration and nationality laws and has both affirmative and defensive litigation responsibilities
- Represents agencies that regulate the movement of aliens across and within our country's borders

The Office of Immigration Litigation (OIL) responds to the review petitions by individual aliens challenging orders of removal, denials of political asylum, and other discretionary immigration benefits. OIL also handles petitions seeking review of employer sanctions and appeals from district court immigration decisions. Before the district courts, OIL responds to habeas corpus actions seeking to thwart detention or deportation, and to individual suits and class actions challenging immigration policy and enforcement actions. Such litigation often involves complex issues of administrative law and substantial constitutional questions. OIL attorneys may be assigned to handle particular cases individually or in concert with Assistant U.S. Attorneys and INS counsel.

Examples of our practice

In INS v. Elias-Zacarias, a claimant sought political asylum in the United States based upon his alleged fear of recruitment by guerrilla forces in his native Guatemala. The Ninth Circuit Court of Appeals reversed the decision by the Attorney General's delegate to deny asylum. The Supreme Court

subsequently held that the lower federal courts may not reverse decisions by the Attorney General denying asylum, absent evidence sufficient to compel any reasonable fact finder to conclude that asylum must be granted.

In INS v. Lopez-Mendoza, the plaintiff challenged his deportation order by alleging that he admitted to being present in this country illegally only after being subjected to an unlawful arrest by agents of the Immigration and Naturalization Service. The Supreme Court determined that the Fourth Amendment's exclusionary rule does not apply to deportation proceedings. Consequently, the Court found that the civil nature of proceedings to remove criminal and other illegal aliens from the United States means that the various Constitutional protections that apply in the context of a criminal trial do not apply in a deportation case.

TORTS BRANCH

- Approximately 120 attorneys are employed by the Torts Branch
- Attorneys are divided among five sections: Aviation and Admiralty; Federal Tort Claims Act; Environmental Torts; Constitutional and Specialized Torts; and, Tobacco Litigation
- The Torts Branch represents the interests of the United States in suits where monetary judgments are sought for damages resulting from negligent or wrongful acts. The Branch also handles actions involving injury or damage to government property

Aviation and Admiralty tort litigation arises from the Government's varied activities in the operation of the air traffic control system, the regulation of air commerce, weather services, aeronautical charting, and the government's own civil and military aircraft. Numerous cases also arise from the extensive flight activities of private, business, and military aircraft. Cases have ranged from the Korean Air/Guam crash to the Cavalese cable-car accident. The office's admiralty practice is diverse, with cases ranging from oil spills, ship collisions and groundings, to cargo damage cases, damaged sea grass beds, search and rescue, and injured seaman and shore worker cases.

Examples of our practice

Admiralty cases

Examples of admiralty cases include the dramatic oil spill of the EXXON VALDEZ Alaska, the grounding of

the QE II off Cape Cod, the unsuccessful rescue of the passengers on the MORNING DEW and the Zuanich ship mortgage foreclosure cases. When the EXXON VALDEZ lost over one million gallons of oil in Prince William sound in 1989, the Civil Division joined with the Environment and Natural Resources Division and various criminal prosecuting offices to recover over \$1 billion in damages and fines. As a result of the incident, Congress enacted the Oil Pollution Act of 1990, under which the Civil Division has since been involved in recovery of clean-up costs for several large pollution incidents.

The QE II litigation addressed the responsibilities of the government when it charts United States navigable waters, the obligations of ship captains who operate vessels in those waters, and whether on-board businesses can recover for consequential losses arising from down-time for repairs. The MORNING DEW, which was featured on the news show "20/20," implicated the Search and Rescue mission of the Coast Guard. Issues included the duties and capabilities of the Coast Guard in search and rescue activities, the effect of hypothermia on potential survivors and wrongful death damages. The Zuanich cases involved mortgages on tuna fishing boats and other collateral property brought in San Diego, American Samoa, Guam, and New Zealand, wherein the U.S. recovered approximately \$28.7 million.

Aviation cases

From dramatic accidents such as the Space Shuttle COLUMBIA and Friendly Fire incidents to mass

disasters such as the crash of Korean Airlines Flight 801, killing 228 of the 254 passengers and crew aboard, aviation litigation specialists are regularly involved in protecting the national security interests of the government. Aviation attorneys defend federal employees whose acts of negligence are alleged to cause personal injury, wrongful death and property damage in aviation torts. In addition to these labor-intensive cases, the staff handles a significant number of cases arising from the activities of general aviation aircraft. Legal issues such as privileges and immunities provide unique challenges in addition to handling this exciting area of tort practice.

Federal Tort Claims Act (FTCA) cases are varied. Those cases handled by section litigators include traditional problems in tort law, such as medical malpractice and other personal injury litigation, as well as seminal issues arising in areas as diverse as regulatory agency activities, wild animal attacks in national parks, and professional malpractice. The section also handles litigation brought by persons who contracted AIDS allegedly due to government negligence in the course of blood transfusions or other medical procedures. Section attorneys protect the United States from exposure to excessive liability, and from second-guessing of governmental policy decisions through tort litigation.

Examples of our practice

FTCA attorneys handled Anderson, et al. v. United States, in which the court ruled for the United States finding the decision to set a controlled burn fire, the United States' acts taken in controlling that fire, and

its suppression efforts, were all protected by the FTCA's discretionary function exception. In Fleming v. United States the court ruled that the Mine Safety and Health Administration did not contribute to a massive underground explosion that killed eight coal miners and injured another. The plaintiffs claimed that federal inspectors overlooked deficiencies during inspections.

In DeValencia v. United States the court ruled for the United States following a seven-day trial in which the issue was whether Department of Veterans Affairs physicians failed to obtain plaintiff's informed consent for disfiguring facial surgery and did not follow VA's national informed consent policies and procedures. In Harbert v. United States, the court ruled that the discretionary function exception to the FTCA shielded the United States from liability for injuries the plaintiff sustained when she fell while touring an historic fort in St. Augustine, Florida. The Court held that the Park Service's decisions regarding what safety improvements to make to the historic fort were protected discretionary acts.

Most of the work of the **Environmental Torts (ET) Section** arises from government contractor or military activities, and from environmental regulatory activity. The cases often involve hundreds of plaintiffs alleging injuries caused by air, surface water, or groundwater contamination, or by direct contact with hazardous substances. The contaminants at issue include chemicals, as well as fuels, carbon monoxide, and bacteria. These actions usually are brought under the FTCA, but are also premised upon admiralty and contract law, or various environmental statutes. Due to the

complexity of such tort matters, ET typically handles these issues, rather than delegating them to the United States Attorneys Offices.

Examples of our practice

Recent cases involved allegations of environmental contamination from NASA's Jet Propulsion Laboratory (JPL) in Pasadena, California; the Army's World War I testing of chemical weapons in what is now the Spring Valley neighborhood of Washington, DC; the Department of Interior's application of herbicide over a large portion of Idaho; the Department of Agriculture's use of pesticides in Nebraska, Texas, and Florida; lead in a house sold by HUD in Rhode Island; and exposure to lead in wastes from mining activities on Native American property in Oklahoma; as well as allegations of injuries from groundwater contamination or toxic air exposures at present and former military facilities in more than a dozen states. In Vallier (the \$800 million groundwater contamination case arising out of the JPL), the ET trial team developed facts dating back to before World War II establishing that the government had properly exercised its discretion in leaving environmental compliance to its contractor, co-defendant and third-party-plaintiff Caltech.

Constitutional and Specialized Tort Litigation (CSTL) is divided into three separate areas. Constitutional Tort attorneys represent federal employees in their individual capacity for alleged violations of the Constitution, common law, and/or statutory provisions. Vaccine Litigation attorneys defend cases brought under the National

Childhood Vaccine Injury Act of 1986. The Radiation Exposure Compensation Act (RECA) Program offers monetary compensation to claimants who contracted certain cancers and other serious diseases as a result of their exposure to radiation under circumstances outlined by Congress.

Examples of our Practice

Constitutional Torts

In the landmark decision of *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), the Supreme Court announced that federal employees can be sued personally for money damages for the alleged violation of Constitutional rights stemming from official acts. Federal employees can also be subjected to individual liability on claims based upon state common law, statutory provisions and even professional licensing matters. Constitutional Tort attorneys are the principal point of contact for issues relating to the representation of federal employees, and directly provide or monitor representation of federal employees in these cases.

Constitutional Tort attorneys represent clients from a wide variety of agencies and subject matters. For example, cases involve clients employed by the Federal Bureau of Investigation, and the Department of Homeland Security against claims alleging religious bias in anti-terrorism operations undertaken after the September 11 attacks, civil suits brought against Department of Defense and military

personnel by detainees at Guantanamo Bay, and other high profile matters. Attorneys also defend personal-liability claims challenging policy decisions made by high ranking government officials in areas as diverse as the conduct of foreign policy, the operation of the space program and the enforcement of arms embargos.

Vaccine Litigation

Under the National Childhood Vaccine Injury Act of 1986, persons injured by the receipt of certain vaccines may recover compensation from the U.S. Government by filing a petition in the U.S. Court of Federal Claims. As an alternative to traditional tort mechanisms, the act established a "no-fault," fast paced, streamlined litigation alternative where the only issues are medical causation and damages. Vaccine Litigation attorneys defend these cases that often involve trials lasting a day or two, and may include complicated factual and medical issues. Many of the cases reflect questions of health policy debated in the national arena, such as recently voiced concerns with respect to autism.

Radiation Exposure Compensation Act Program

On October 5, 1990, Congress passed the Radiation Exposure Compensation Act (RECA). The Act offers an apology and monetary compensation to individuals who contracted certain cancers and other serious diseases as a result of their exposure to radiation released during above-ground atmospheric nuclear weapons tests and as a result of their

occupational exposure while employed in underground uranium mines during the build-up to the Cold War. The RECA Program has, to date, awarded over \$1 billion and processed tens of thousands of claims.

APPLYING TO THE CIVIL DIVISION

To obtain information on

- Current attorney vacancies at the Department of Justice (including the Civil Division)
- Lateral/Experienced attorney hiring
- Attorney General's Honor Program for entry-level attorney positions
- Summer Law Intern program for compensated Summer internships
- Volunteer Opportunities

please visit the Department's Office of Attorney Recruitment and Management Web site at www.usdoj.gov/oarm.

The Department of Justice is an Equal Opportunity/Reasonable Accommodation Employer. Except where otherwise provided by law, there will be no discrimination because of color, race, regional, national origin, politics, marital status, disability, age, sex, sexual orientation or on the basis of personal favoritism.

The Department of Justice welcomes and encourages applications from persons with physical and mental disabilities and will reasonably accommodate the needs of those persons. The Department is firmly committed to satisfying its affirmative obligations under the Rehabilitation Act of 1973, to ensure that persons with disabilities have every opportunity to be hired and advanced on the basis of merit within the Department of Justice.